

UNITED STATES DISTRICT COURT

District of Oregon

[Plaintiff],

Plaintiff(s),

CV. 06-999-BR

v.

**INDIVIDUALS WITH DISABILITIES
EDUCATION ACT
SCHEDULING ORDER**

[Defendant],

Defendant(s)

I. Filing

- a. The plaintiff shall designate in the caption of the complaint under description of the action that the complaint is brought pursuant to the Individuals With Disabilities Education ACT (IDEA).
- b. No later than 20 days after filing, the plaintiff shall serve a notice of filing upon the Department of Education requesting that the Department of Education forward the record of the Administrative Hearing to the court. The notice of filing and request shall include:
 - 1) The name of the assigned judge;
 - 2) The district court case number;
 - 3) The date the record is to be provided to the district court. (The record is to be provided to the district court within 45 days after receipt of the notice unless the court orders an earlier or later date);
 - 4) The names and addresses of the parties;
 - 5) The case number of the administrative hearing;
- c. No later than 45 days after receipt of the notice of filing and request, the Department of Education, or its designee, shall forward the record to the district court, unless the court orders a different date.

- d. The record shall include two copies of the tapes of the hearing, two copies of tapes of any other proceedings from below, the briefs of the parties, the exhibits and any motions and rulings upon motions, any findings of fact, conclusions of law, interlocutory and final orders, and any other dispositive rulings of the hearing officer.
- e. The Department of Education, or its designee, shall file the record in the following format:
 - 1) A numerical index of the record shall be prepared.
 - 2) Documents shall be numbered chronologically.
 - 3) Exhibits from the hearing shall retain their numbering and shall be grouped under one number for the district's exhibits and one number for the parents' exhibits.
 - 4) A transmittal letter shall be sent to the court and to each party.

A typical index would be as follows:

- (A) December 20, 1996 Request for Due Process Hearing
- (B) January 15, 1997 Letter from Assigned Hearings Officer
- (C) January 30, 1997 Response to request for due process hearing
- (D) District's brief for hearing
- (E) Parents' brief for hearing
- (F) District's exhibits A1-95
- (G) Parents' exhibits 31-50
- (H) April 15, 1997 Final Order
- (I) Tapes of hearing

2. Case Management Conference

- a. In lieu of the court's usual discovery and pretrial schedule, within 10 days after the answer or a responsive pleading is filed, or upon request of either party for an earlier date, the court shall schedule a conference with the parties.
- b. The following are issues that may be discussed at the conference:
 - 1) Whether the case is only an appeal of the hearings officer's order or includes claims other than an appeal, and, if so, whether a trial and/or discovery will be necessary;
 - 2) Whether either party intends to supplement the record below with additional evidence, and whether such supplementation is to be permitted;
 - 3) Whether either party wishes discovery;

- 4) If there are counterclaims, such as 42 U.S.C. § 1983 claims, whether the counterclaims can be heard or whether the parties must exhaust their administrative remedies;
- 5) Whether a complete, partial or no written transcript will be submitted and, if so, who will pay for it. The Department of Education shall not be responsible for the written transcript of any tapes;
- 6) The need for a filing of an in forma pauperis request in the event the plaintiff cannot pay for a written transcript;
- 7) A briefing schedule for motions, briefs on the issues and the record, and oral argument;
- 8) Counsels' analysis of basic legal and factual questions involved;
- 9) Advisability of mediation or a settlement conference;
- 10) Whether the issue of attorney fees will be deferred until after a ruling on the case.

3. Case Management Order

Thereafter, the assigned judge will issue a case management order establishing pretrial or pre-briefing requirements and setting the date of any motions, completion of discovery, filings and other matters as may be appropriate.

SO ORDERED:

Dated this _____ day of _____, 200____.

Honorable